

IN THE CIRCUIT COURT OF CLINTON COUNTY, MISSOURI

WILLIAM KEMPER, et al.,

Plaintiffs,

v.

PRIME TANNING CORP., et al.,

Defendants.

Case No. 09CV-CV00333

FILED
JUL 2 2009

MOLLY LIVINGSTON
CLERK OF CIRCUIT COURT

**NATIONAL BEEF LEATHERS' REPLY TO
PLAINTIFFS' RESPONSE TO APPLICATION FOR
CHANGE OF VENUE AND CHANGE OF JUDGE**

National Beef Leathers, LLC ("NBL") replies to Plaintiffs' response to NBL's Application for Change of Venue and Judge as follows:

The only consideration for the Court in its decision whether to transfer venue to Livingston County is convenience to the parties. M.R.C.P. 51.03. Plaintiffs' contention that Jackson County is better equipped than Livingston County to handle this case is irrelevant to the issue of convenience, and they cite no authority to support the argument that the judges and staff of the Livingston County court not fully capable of handling this case.

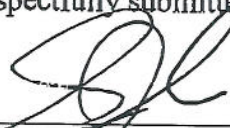
Also contrary to Plaintiffs' argument, Livingston County will not be inconvenient to fact or expert witnesses, who likely would only be called to testify in Livingston County once, at the time of trial. Typically, depositions of witnesses occur where the witnesses are located or at some other agreed-upon location, and not necessarily near the trial venue. And convenience to attorneys is irrelevant to the Court's consideration. Livingston County, therefore, remains the most convenient alternative venue for this case.

Furthermore, other plaintiffs have filed three cases with similar allegations where they seek class certification that would include as plaintiffs the residents of four of the six counties

that comprise the Forty-Third Judicial Circuit, namely Andrew, Buchanan, Clinton and DeKalb Counties.¹ There is no merit to these cases, whether or not certified as class actions. Regardless, Livingston County is the closest venue in the Forty-Third Judicial Circuit for those with an interest in this and other related litigation and is therefore more convenient than Jackson County.

WHEREFORE, for the reasons set forth here and in its Application for Change of Venue, NBL respectfully requests the Court to transfer this lawsuit to Livingston County and to grant NBL such further relief as this Court deems appropriate.

Respectfully submitted,



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¹ These cases are Nicholson, et al. v. Prime Tanning, et al., Case No. 09DK-CC00052, Gardner, et al. v. Prime Tanning, et al., Case No. 08CN-CV00692, and Hclms, et al. v. Rockwool Industries, et al., Case No. 08CN-CV00693.

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the above and foregoing was mailed, by regular, first-class mail, postage prepaid, this 2nd day of July, 2009 to the following:

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